

REPORT OF INVESTIGATION



| | |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------|
| File Number: | 04-073 |
| Agency: | Department of Agriculture |
| Basis for Investigation: | Citizen Complaint |
| Allegations: | Conducting a Private Business on State Time, Violation of Dual Employment Policy and Abuse of Sick Leave Policy |
| Date Opened: | November 2003 |
| Investigated By: | James E. Sehorn, Inspector General Elizabeth P. Archer, Deputy Inspector General |
| Date of Report: | September 15, 2004 |

OFFICE OF THE INSPECTOR GENERAL



File Number: 04-073

EXECUTIVE SUMMARY

In November 2003, a complaint was filed with the Office of Inspector General (OIG) requesting an investigation of Ron Weaver, Assistant Commissioner of Administration with the Department of Agriculture (DOA). The complaint alleged that Mr. Weaver was conducting a law practice while on state time. The OIG conducted several interviews and numerous documents were reviewed during the course of the investigation.

Our investigation revealed that Mr. Weaver did use state time to conduct business related to his law practice in Florida. Our investigation also revealed that Mr. Weaver violated the Department's leave policy when he used sick leave to appear in court. Subsequent to the investigation, Mr. Weaver resigned his position with the DOA.

The OIG offered five administrative recommendations, and requested that the Department respond within 30 days with a plan for implementation.

1. The 1987 DOA policy on Dual Employment, Paragraph 3, be amended to state that DOA employees may not conduct outside business for profit through the use of a personal cell while on state time.
2. That the 2004 General Works Policies be amended to include that interns with the DOA are subject to all DOA policies.
3. That DOA create a Secondary Employment Acknowledgement/Request Form that includes the following: Employee Information, Acknowledgement of Policies, Secondary Employer Information, Supervisor Certification that Policies were reviewed and the Signature of the Commissioner and Human Resources Director acknowledging that no Conflict of Interests exists.
4. That the 1987 policy on Dual Employment, Paragraph 2, be amended to state that the Assistant Commissioner of Administration shall no longer have the authority to deny or revoke his own dual employment privileges.
5. Supervisors should periodically analyze attendance records for possible evidence of abuse (i.e. patterns of absences on Friday/Monday). Any suspected abuse should be reported to the Commissioner, the employee's Direct Supervisor and the Human Resource Director.



Report of Investigation

File No. 04-073

TABLE OF CONTENTS

| | | |
|-------------|-------------------------------------|--------------|
| I. | Basis for Investigation..... | 1 |
| II. | Narrative..... | 1-7 |
| III. | Conclusion..... | 7-8 |
| IV. | Referrals..... | 8 |
| V. | Recommendations..... | 9 |
| VI. | Exhibits..... | 10-11 |

SUMMARY OF ACTIONS

04-073

I. Basis for Investigation

In November 2003, a complaint was filed with the Office of the Inspector General (OIG) requesting an investigation of Ron Weaver, Assistant Commissioner of Administration with the Department of Agriculture (DOA). The complainant alleged that Weaver was conducting a private law practice while on state time.

II. Action Taken in Furtherance of Investigation

The OIG reviewed telephone records, fax records, court documents, leave requests and DOA policies and procedures. The OIG also conducted interviews with DOA employees.

III. Narrative

In November 2003, a former DOA employee contacted the OIG complaining of mismanagement within the Department. While outlining these allegations, the employee stated that Weaver had asked the employee to perform duties that were not related to the Department. According to the employee, Weaver had asked the employee to work on legal documents related to Weaver's private Florida law practice. The employee alleged that the employee was terminated for, among other reasons, refusing to do this unauthorized work.

Based upon this information, the OIG conducted a preliminary investigation into the matter before sending the complaint to DOA. The OIG's initial investigation showed that the Florida Bar website indicated that Ron Weaver was an active member of the Florida Bar. (Exhibit 1) An internet search conducted on March 15, 2004, revealed that Weaver had an active website advertising his law practice at www.ronweaverlaw.com, which stated that his practice was based in Tallahassee, Leon County, Florida. (Exhibit 2)

On March 17, 2004, the OIG contacted the Leon County Clerk of Courts and requested assistance in performing an Attorney Status Report on Weaver. The report revealed that, in Leon County, Weaver was listed as counsel on 41 closed cases, three open cases and one "terminated" case. (Exhibit 3)

The OIG requested DOA telephone and facsimile records from Weaver's land line from the Georgia Technology Authority (GTA) for the dates of April 2003 to the present. The records revealed that numerous calls were placed to Florida. A majority of those calls were to Tallahassee and Lakeland, Florida. Three of the calls were to Tallahassee law firms. (Exhibit 4)

On April 22, 2004, the OIG called a Florida telephone number found on a "yellow pages" internet search for Weaver's law practice. A female answered the telephone. The Inspector General identified himself and stated that he was calling to confirm whether the number was associated with an active law practice for Weaver. The female did not identify herself and neither confirmed nor denied that the number belonged to Weaver's law practice. She did, however, state that Weaver was "currently tied up in a meeting" and would get back to the Inspector General at a later time. (Exhibit 5)

On the same day, the Inspector General contacted DOA Commissioner Tommy Irvin to inform him to expect a letter from the OIG alleging misuse of state time and property by Weaver. The Inspector General stated that further investigation was warranted based on the OIG's preliminary investigation. Commissioner Irvin stated that Weaver was an attorney and that he knew that Weaver had a private practice in Tallahassee, Florida before joining the Department in October 2002. Commissioner Irvin stated that when the Department hired Weaver, Commissioner Irvin agreed to allow Weaver six months to close his practice. Commissioner Irvin stated that if Weaver was still conducting his practice it was in violation of their verbal agreement. (Exhibit 6)

Commissioner Irvin stated that he would assign Pat Longino, Personnel Director for DOA, and Shirley King, Administrative Director with DOA, to conduct an internal investigation into the allegation and report their findings to the Inspector General within two weeks.

On April 23, 2004, Ron Weaver contacted the Inspector General and stated that "he did not wish to cause the Department any embarrassment." Weaver asked whether the Inspector General would terminate the investigation if Weaver resigned. The Inspector General explained to Weaver that the OIG had the responsibility to fully investigate the allegation and make any appropriate recommendations. (Exhibit 7)

On April 24, 2004, Weaver resigned his position with DOA.

First Meeting with Pat Longino and Shirley King

On May 3, 2004, the OIG met with Pat Longino and Shirley King to discuss the status of the DOA investigation. Ms. Longino stated that upon reviewing the phone records she determined that eleven of the phone calls to Florida were placed by Weaver's intern. Ms. Longino stated that Weaver's intern made personal long distance calls to her family members. According to Ms. Longino, one of the numbers that appeared frequently was Weaver's personal cell phone number. Ms. Longino stated when the DOA called Weaver, the DOA paged him on his cell phone using the Department's land line. According to Ms. Longino, Weaver always carried two personal cell phones with him. She

stated that Weaver received “numerous” calls on his cell phones, but Ms. Longino was not aware of the nature of those calls. When Weaver received a cell phone call in the presence of DOA employees, he would either excuse himself from the room or ask the DOA employee to leave the room.

Ms. Longino stated that when she attempted an internet search of Weaver’s website, the website indicated it was “under construction.” The OIG asked Ms. Longino if the DOA had the opportunity to review Weaver’s computer. According to Ms. Longino, Weaver did not have a computer in his office, but instead used a laptop because he wanted to be “mobile.” She stated that upon his resignation, Weaver returned the computer to the DOA technology department.

In addition to Ms. Longino, the OIG spoke with Shirley King concerning the allegations. Ms. King stated that for the last two years she shared office space with Weaver. She stated that she had no knowledge of Weaver conducting a law practice while on state time.

The OIG asked to speak to Weaver’s executive assistant. Ms. King stated that Weaver “did not use one.” According Ms. King, Weaver did not have “good luck” with secretaries, and preferred to do all of his own work. Ms. King confirmed that Weaver received numerous calls on his cell phone, however, she was unaware of the nature of those calls.

Based on their limited investigation, DOA was unable to verify whether Weaver was conducting a law practice while on state time. At that meeting, it was decided that the OIG would continue with the investigation in an effort to substantiate the allegation. (Exhibit 8)

Interview with Commissioner Tommy Irvin

On May 6, 2003, the IG and Deputy Inspector Archer met with Commissioner Tommy Irvin. Commissioner Irvin explained that he met Weaver at a Grocer’s meeting in August 2002 in Amelia Island, Florida. At the time, Weaver was a practicing attorney in Florida. According to the Commissioner, Weaver informed him that he had previously worked at the Florida Department of Agriculture, and that he was moving to Georgia due to his wife’s employment. The Commissioner stated that he offered Weaver a position with the DOA with the stipulation that Weaver had six months to “close out” his Florida practice (hereinafter referred to as the “wind-down period”). DOA hired Weaver in October of 2002. The Commissioner stated that after the six months, Weaver’s sole employment would be with the DOA.

The Commissioner stated that when the IG contacted him on April 22, 2004 the Commissioner called Weaver and informed him of the allegation. According to the Commissioner, Weaver did not admit to the allegation.

Commissioner Irvin stated that two days later on April 24, Weaver called Commissioner Irvin at his home and told him that he was resigning.

According to the Commissioner, he was told that when Weaver brought back his department-issued computer, it had been “swiped clean.” Commissioner Irvin stated that it would cost over \$2,000.00 to have the data on the computer retrieved. The IG informed the Commissioner that the OIG would continue to investigate other avenues before asking the DOA to incur this expense. (Exhibit 9)

Court Documents and Pleadings

As stated, the Leon County, Florida Clerk of Court’s search showed many cases with Weaver listed as an attorney for one of the parties. Although some cases predated Weaver’s employment with the DOA, there was sufficient evidence to suggest that Weaver was continuing to practice law beyond the wind-down period. Further, the OIG understood from Commissioner Irvin that, even during the wind down period, Weaver was not permitted to practice law on state time. Rather, Commissioner Irvin intended for Weaver to close down his practice within six months of starting at the Department and all time spent on winding down his law practice should have been performed off of state time.

The OIG focused on only those cases that were considered “open” after the wind-down period; specifically, April 2003 through April 2004. The investigation revealed the following:

January of 2003: On January 24, 2003, Weaver scheduled depositions in the Joyce Daniels case. (Exhibit 10) On February 26, 2003, Weaver submitted a leave form for eight hours of sick leave and eight hours of annual leave for January 23, 2003 and January 24, 2003. (Exhibit 11) While the case fell within the wind-down period, it violates DOA policy on Dual Employment. Paragraph 4 of the policy states:

“Employees are prohibited from engaging in other work, either during working hours or outside working hours, during any period of **sick** leave.”
(Exhibit 12)

August 2003: On August 17, 2003, Weaver filed a Petition for Discharge in a probate case for the *Estate of Jutta E. Melton*. Weaver signed the pleading as the attorney for the personal representative (estate). Weaver attached to the court document an exhibit list, which showed that he received \$1,250.00 for his representation. (Exhibit 13)

August 2003: On August 15, 2003, Weaver filed a Petition for Discharge in the *Estate of Emma Fields*. Weaver signed the pleading as the attorney for the personal representative. Weaver attached to the court document an exhibit list, which showed that he received \$1,750.00 for his representation. (Exhibit 14)

October 2003-February 2004: On November 29, 2003, Weaver filed an Answer to Complaint for Foreclosure in a case styled, *Tallahassee Habitat for Humanity Inc. vs. Davis, Terrance, et al.* Attached to the answer is a letter to the Clerk of Courts for the Probate Division signed by Weaver. Weaver used as his contact telephone number, the same number DOA employees used when they needed to contact him. Furthermore, Weaver used the e-mail address of Ron@ronweaverlaw.com to receive e-mail correspondence. Weaver used his home fax to send legal pleadings to the Clerk of Courts. However, Weaver's fax line reads Ron Weaver and Associates. The case was dismissed in February 2004. (Exhibit 15)

January 2004-March 18, 2004: On January 14, 2004, Weaver submitted a notice for trial in a divorce case styled *Dexter Lockwood vs. Lillie Lockwood*. On March 11, 2004, Leon County Circuit Judge John C. Cooper sent Weaver an order setting a case management hearing for March 18, 2004. The order required Weaver to personally appear for the hearing. Weaver submitted a sick leave with DOA for March 18, 2004. The OIG contacted the Judge Cooper's judicial assistant who stated that to the best of her knowledge, Weaver contacted her during business hours (8:00 a.m. to 5:00 p.m.) with regards to setting the case for a hearing. (Exhibits 16 & 17)

March 2004: On March 25, 2004, Weaver personally signed a Petition for Discharge in the *Estate of Mary Lee Lamb*. Weaver was originally appointed as the personal representative on August 26, 2002. (Exhibit 18)

Information Technology(IT)

On May 27, 2004, the OIG contacted David Rierson, IT Director for the DOA. The purpose of the call was to determine whether the DOA had the opportunity to review Weaver's laptop for any documents that were not agriculture related. Mr. Rierson stated that when he logged on Weaver's laptop, he was able to determine that all of Weaver's personal storage data had been recently emptied and deleted from the hard drive. Mr. Rierson also stated that all Weaver's personal storage on the DOA's main network had also

been deleted. According to Mr. Rierson, no e-mails could be located on Weaver's computer. (Exhibit 19)

Time Sheets and Leave Forms

At the OIG's request, DOA provided the OIG with copies of Weaver's leave requests and official time grid. Upon review, the OIG determined that many of Weaver's leave requests were not submitted until weeks after Weaver actually took leave. It also appeared that many of the forms had not been personally signed by Weaver, but by someone else. On July 16, 2004 the OIG met with Pat Longino to discuss the discrepancies in Weaver's leave requests. Ms. Longino stated that on numerous occasions Weaver would submit leave requests a month after the fact. According to Ms. Longino, DOA had an unwritten policy that all leave requests had to be submitted by the 15th or the 30th of each month. Any form submitted after this time was considered late.

Ms. Longino stated that the Commissioner was the only person who could sign off an Assistant Commissioner's leave request. Ms. Longino went through Weaver's requests and confirmed that the Commissioner had signed many of the requests. Ms. Longino noted that Shirley King also filled out many of Weaver's request forms. She stated that this was not unusual because Ms. King had the job of collecting the leave requests for her division. (Exhibit 20)

On July 22, 2004 the OIG met with Shirley King to discuss Weaver's leave requests. Ms. King stated that in her current position as the Director of Administration, she is responsible for administrative matters, which includes time sheets and leave forms for her division. Ms. King stated that she received numerous phone calls from personnel concerning the tardiness of Weaver's leave requests. She stated that initially Weaver did not fill out requests as required. However, she or the executive assistant would make sure that Weaver's leave was documented on the official time grid. According to Ms. King, she was constantly reminding Weaver to fill out his requests.

As a result of Weaver failing to file his requests with the Commissioner, Ms. King would fill out Weaver's leave requests and leave them in his office. Ms. King realized that Weaver was allowing the requests to accumulate on his desk. Ms. King admitted that it was possible that many of Weaver's requests "did not make their way to the Commissioner." Ms. King stated that as a "last resort," she would fill out Weaver's leave requests and personally take them to the Commissioner's office.

When questioned about Weaver's work habits, Ms. King stated that when Weaver started with the Department he received personal legal faxes on the State fax machine. Ms. King also stated that Weaver requested a single line cordless phone for an extra phone outlet that was in his office. According to

Ms. King, Weaver initially received calls on this line, but took the majority of calls on his personal cell phone. (Exhibit 21)

The OIG also reviewed Weaver's sick leave requests from 2003 to the present. From January 2003 to November 2003, Weaver took 128 hours of sick leave. In addition, Weaver frequently missed one day a week for every week in a particular month. (Exhibits 22 & 23)

Phone Conversation with Ron Weaver

On July 28, 2004, prior to closing the case, the OIG contacted Ron Weaver. Weaver stated that he had never been the subject of an investigation and was unclear as to why the OIG was investigating him. The OIG explained to Weaver the nature of the allegations and the documentation that had been discovered during the course of the investigation. The OIG informed Weaver that it appeared that Weaver had violated DOA policy by practicing law while on state time and that the OIG was calling to offer Weaver the opportunity to dispute the allegations. Weaver responded that he always informed his clients to remain silent during the course of an investigation. Weaver stated that since he "did not know where this investigation was going," he was not going to say anything. (Exhibit 24)

IV. Conclusion

The obvious inference from the evidence collected is that Weaver was not winding down his law practice as agreed. Instead, Weaver maintained a law practice in another state while serving as the second in command of the DOA. In fact, it appears that Weaver continued to take cases up until the time he resigned his position. Professions, such as the law, do not lend themselves to "moonlight" positions. Law is typically practiced during the normal business days. While the law does not prohibit dual employment, a state employee's second job cannot interfere with the employee's primary responsibility to the state and the agency he serves. Further, a state employee is prohibited from working a second job while on state time. It appears from the investigation that Weaver violated this policy.

Unfortunately, Weaver also violated the DOA's and Commissioner Irvin's trust. In the future, certain steps should be taken to prevent an employee from abusing his position, the trust of the Department and the taxpayers of Georgia.

Moreover, the Department should take steps to make sure that employees do not abuse the dual employment provision. Weaver was able to take excessive amounts of leave and it appears that his leave was never tracked or questioned. Further, Weaver was able to mask his private work by refusing to use an executive assistant, by having multiple cell phones, and by juggling his private calls with his state duties. The Inspector General realizes that there

may have been legitimate reasons for Weaver to take sick leave. However, Weaver's use of sick leave to attend court hearings was in violation of DOA's Leave and Holiday Regulations policy.

DOA's policy states the following:

Upon approval of the employee's supervisor the employee may use accrued sick leave for absence due to personal illness or disability; absence necessitated by exposure to contagious disease by reason of which exposure the health of others would be endangered by the employee's attendance on duty; absence for dental and medical care; and for absence due to dental care or medical care, illness, accident or death in the employee's immediate family which requires the employee's presence. (Exhibit 25)

Clearly, servicing clients in another state does not meet the DOA's definition of sick leave. As the Assistant Commissioner, Weaver had a higher duty to understand and follow the policies set forth by the DOA. Given his quick departure and his refusal to answer any questions during the course of this investigation, one can infer that Weaver knew what he was doing was wrong.

V. Referral

As a result of our findings, we are forwarding a copy of this report to the Attorney General's Office for their review and any action they deem appropriate.

VI. Recommendations

Based upon our findings, the OIG offers the following administrative recommendations. The OIG requests that the DOA provide a written response regarding the implementation of these recommendations within 30 days of the issuance of this report.

- 1) That the 1987 DOA policy on Dual Employment, Paragraph 3, be amended to state that DOA employees may not conduct outside business for profit through the use of a personal cell phone while on state time.
- 2) That the 2004 General Work Policies be amended to include that interns with the DOA are subject to all DOA policies.

- 3) That DOA create a Secondary Employment Acknowledgement/Request Form that includes the following: Employee Information, Acknowledgement of Policies, Secondary Employer Information, Supervisor Certification that Policies were Reviewed and the Signature of the Commissioner and Human Resources Director acknowledging that no Conflict of Interests exists.*
- 4) That the 1987 policy on Dual Employment. Paragraph 2, be amended to state that the Assistant Commissioner of Administration shall no longer have the authority to deny or revoke his own dual employment privileges.
- 5) Supervisors should periodically analyze attendance records for possible evidence of abuse (i.e., patterns of absences on Fridays/Monday). Any suspected abuse should be reported to the Commissioner, the employee's Direct Supervisor and the Human Resources Director.

*Attached as Exhibit 26 is a Secondary Employment form created by GSFIC for reference purposes.

EXHIBIT LIST

NUMBER

ITEM

1. Florida Bar Attorney Profile
2. Copy of Ron Weaver's Website
3. Attorney Status Report
4. GTA Phone Records
5. Initial Contact with Ron Weaver's Law Practice dated April 22, 2004
6. Contact with Commissioner Tommy Irvin April 23, 2004
7. Contact with Ron Weaver dated April 23, 2004
8. Interview of Human Resources Director Pat Longino on May 3, 2004
9. Interview of Commissioner Tommy Irvin on May 6, 2004
10. Court Documents in the Joyce Daniels Case and Letter Filed by Ron Weaver Setting Depositions
11. Sick Leave Request Submitted by Ron Weaver
12. DOA's Dual Employment Policy
13. Court Documents in the Jutta Melton Case
14. Court Documents in the Emma Fields Case
15. Court Documents in the Habitat for Humanity Case

16. Court Documents in the Dexter Lockwood Case
17. Fax from Beth Roberson, Judicial Assistant to Judge John C. Cooper
18. Court Documents in the Mary Lee Lamb Case
19. Interview of IT Director David Rierson on May 27, 2004
20. Meeting with Pat Longino on July 16, 2004
21. Meeting with Shirley King, Administrative Director for DOA on July 22, 2004
22. Ron Weaver's Leave Requests
23. Spread Sheet of Ron Weaver's Leave Requests
24. Interview of Ron Weaver on July 28, 2004
25. DOA's Sick Leave Policy
26. GSFIC Dual Employment Form